

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

THEO CHINO,

Plaintiff-Petitioner,

-against-

THE NEW YORK DEPARTMENT OF  
FINANCIAL SERVICES and MARIA T. VULLO,  
in her official capacity as the Superintendent of the  
New York Department of Financial Services,

Defendants-Respondents.

Index No. 101880/2015  
Hon. Lucy Billings

**AFFIDAVIT OF THEO CHINO  
IN SUPPORT OF PLAINTIFF-  
PETITIONER'S CROSS-  
MOTION FOR LEAVE TO  
AMEND HIS COMPLAINT**

STATE OF NEW YORK     )  
  )  
COUNTY OF NEW YORK    )     ss.:

I, Theo Chino, being duly sworn, deposes and states:

1. I am the Plaintiff-Petitioner in the above listed case. The information given in this affidavit is true and correct to the best of my knowledge.

2. I understand that this affidavit is provided in support of a cross-motion requesting amendments to my initial petition filed pro se on October 16, 2015.

3. On November 19, 2013, I incorporated Chino LTD in Delaware. A copy of the Delaware filing is attached as Exhibit I.

4. On February 24, 2014, I submitted an application for authority to conduct business in the state of New York under § 1304 of the Business Corporation Law as a foreign business corporation. The original purpose of Chino LTD was to install Bitcoin processing services in the State of New York. A copy of the New York filing receipt is attached as Exhibit

II.

5. On December 31, 2014, Theo Chino co-founded Conglomerate Business Consultants, Inc. (“CBC”). A copy of the New York Certificate of incorporation is attached as Exhibit III.

6. Between December 2014 and May 2015, CBC entered into formal contracts with seven bodegas in New York to offer Bitcoin-processing services. The service would allow customers to pay for things like a gallon of milk in Bitcoin instead of with fiat money or a credit card. A copy of one of the contracts between CBC and a bodega is attached as Exhibit IV.

7. While CBC was a distributor of the Bitcoin processing service (and other services) directly to bodegas, Chino LTD provided the actual Bitcoin processing.

8. Chino LTD provided all the research and development for Bitcoin processing, bought all of the computers to run the backend of processing Bitcoin, rented all of the hosting equipment to run the front end of processing Bitcoin, and developed custom operating systems to run the Bitcoin processing.

9. On August 16, 2015, I submitted an application under the New York State Minority Owned/Women Owned Business Enterprise Program for Chino LTD, which is still pending with New York State. A copy of the application and of its status information is attached as Exhibit V.

10. Following the promulgation of the “Virtual Currency” regulation by the New York State Department of Finance at Part 200 of Chapter 1 of Title 23 of the New York Codes, Rules and Regulations (cited as “NYCRR”) (the “Regulation”), and as required under NYCRR § 200.21, I submitted an application on behalf of Chino LTD for a license on August 7, 2015 to engage in Virtual Currency Business Activity, as defined in 23 NYCRR § 200.2(q). A copy of the application is attached as Exhibit VI.

11. In January 2016, one consumer at Rehana's Wholesale made a purchase using Bitcoin which was processed by Chino LTD. A copy of the bill indicating the purchase is attached as Exhibit VII.

12. On January 4, 2016, the New York State Department of Financial Services returned my application without further processing after they performed an initial review. The stated reason for returning my application was that the New York State Department of Financial Services was unable to evaluate whether Chino LTD's current or planned business activity would be considered Virtual Currency Business Activity that requires licensing under the New York Financial Services Law and regulations. A copy of the January 4, 2016 letter is attached as Exhibit VIII.

13. In 2013, the year Chino LTD was incorporated, it suffered losses of only \$4,367. The losses were due to the cost of purchasing computer equipment to test how to protect Bitcoin and figure out how to monetize it. A copy of Chino LTD's 2013 U.S. Income Tax Return, filing as an "S Corporation," is attached as Exhibit IX.

14. In 2014, Chino LTD suffered losses of \$59,667. The losses were mainly due to the cost of computer hardware required to run the Bitcoin warehousing, the cost of renting computer time on the cloud, and marketing the service to bodegas. A copy of Chino LTD's 2014 U.S. Income Tax Return, filing as an "S Corporation," is attached as Exhibit X.

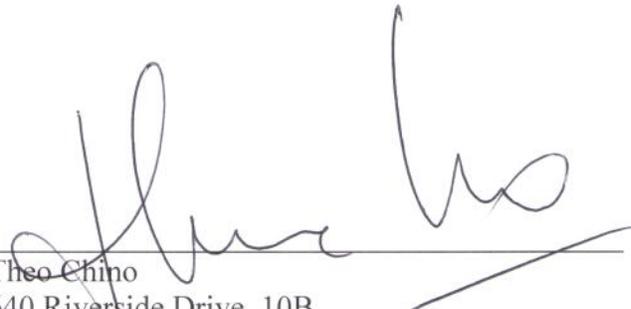
15. In 2015, the year Chino LTD submitted an application for a license to engage in Virtual Currency Business Activity, Chino LTD suffered losses of \$30,588. The losses were due to the cost of the utilities to process Bitcoin (computer time on the internet cloud), the interest on the borrowed capital required to purchase the equipment the previous year, the cost associated with supporting CBC (who entered into the agreements with bodegas), and the cost of

litigation. A copy of Chino LTD's 2015 U.S. Income Tax Return, filing as an "S Corporation," is attached as Exhibit XI.

16. In 2016, even though Chino LTD could no longer offer Bitcoin services because it did not receive a license, Chino LTD remained an active "S Corporation" and suffered losses of \$53,053. The losses were due to the utilities for keeping the equipment to process Bitcoin in the event of a successful litigation, the interest on the borrowed capital from the previous three years, and the cost of the litigation. A copy of Chino LTD's 2016 U.S. Income Tax Return, filing as an "S Corporation," is attached as Exhibit XII.

17. The 2016 tax returns for Chino LTD, together with the 2013 to 2015 tax returns for Chino LTD, confirm that the Regulation prevented me from generating business activity and income, since Chino LTD's losses had continued since 2015.

Dated: April 27, 2017  
New York, NY

  
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Theo Chino  
640 Riverside Drive, 10B  
New York, NY 10031

SWORN to before me, this 26<sup>th</sup> day April, 2017

  
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NOTARY PUBLIC

